

AMENDED IN ASSEMBLY APRIL 24, 2013

AMENDED IN ASSEMBLY APRIL 16, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 922

Introduced by Assembly Member Patterson

February 22, 2013

An act to *amend Section 739.1 of*, and to add Section 739.11 to, the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 922, as amended, Patterson. Public utilities: rates: CARE program: eligibility.

~~(1) Under~~

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical and gas corporations, as defined. The Public Utilities Act authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. Existing law requires the commission to designate a baseline quantity of electricity and gas necessary for a significant portion of the reasonable energy needs of the average residential customer, and requires that electrical and gas corporations file rates and charges, to be approved by the commission, providing baseline rates, and requires the commission, in establishing baseline rates, to avoid excessive rate increases for residential customers. The act requires the commission to establish a program of assistance to low-income electric and gas customers, referred to as the California Alternate Rates for Energy or CARE program. ~~A violation of the act is a crime.~~ Existing law requires the commission to work with electrical

and gas corporations to establish penetration goals for the CARE program.

~~This bill would require the CARE application process to require an applicant to submit proof of income when applying for enrollment. The bill would require the applicant to submit the information under the penalty of perjury. Because the bill would create a new crime, the bill would impose a state-mandated local program. The bill would require an electrical or gas corporation to conduct a random audit to participants in the CARE program to ensure continued eligibility of the participants. The bill would require the removal of participants found to be ineligible and would require the electrical or gas corporation to establish a procedure by which a participant may challenge the finding of ineligibility. The bill would specify the manner in which the monetary penalty is to be used.~~

~~Because a violation of the above provision would be a crime, the bill would impose a state-mandated local program.~~

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

This bill would instead prohibit the commission from establishing penetration goals for the CARE program. The bill would require the commission to authorize an electrical or gas corporation to verify, by the submission of proof of income, the continuing eligibility of participants in the CARE program regardless of the manner in which the participant was first enrolled into the program.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~*no*.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 739.1 of the Public Utilities Code is*
2 *amended to read:*

3 739.1. (a) As used in this section, the following terms have
4 the following meanings:

5 (1) “Baseline quantity” has the same meaning as defined in
6 Section 739.

7 (2) “California Solar Initiative” means the program providing
8 ratepayer funded incentives for eligible solar energy systems

adopted by the commission in Decision 05-12-044 and Decision 06-01-024, as modified by Article 1 (commencing with Section 2851) of Chapter 9 of Part 2 and Chapter 8.8 (commencing with Section 25780) of Division 15 of the Public Resources Code.

(3) “CalWORKs program” means the program established pursuant to the California Work Opportunity and Responsibility to Kids Act (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code).

(4) “Public goods charge” means the nonbypassable separate rate component imposed pursuant to Article 7 (commencing with Section 381) of Chapter 2.3 and the nonbypassable system benefits charge imposed pursuant to the Reliable Electric Service Investments Act (Article 15 (commencing with Section 399) of Chapter 2.3).

(b) (1) The commission shall establish a program of assistance to low-income electric and gas customers with annual household incomes that are no greater than 200 percent of the federal poverty guideline levels, the cost of which shall not be borne solely by any single class of customer. The program shall be referred to as the California Alternate Rates for Energy or CARE program. The commission shall ensure that the level of discount for low-income electric and gas customers correctly reflects the level of need.

(2) The commission may, subject to the limitation in paragraph (4), increase the rates in effect for CARE program participants for electricity usage up to 130 percent of baseline quantities by the annual percentage increase in benefits under the CalWORKs program as authorized by the Legislature for the fiscal year in which the rate increase would take effect, but not to exceed 3 percent per year.

(3) Beginning January 1, 2019, the commission may, subject to the limitation in paragraph (4), establish rates for CARE program participants pursuant to this section and Sections 739 and 739.9, subject to both of the following:

(A) The requirements of subdivision (b) of Section 382 that the commission ensure that low-income ratepayers are not jeopardized or overburdened by monthly energy expenditures.

(B) The requirement that the level of the discount for low-income electricity and gas ratepayers correctly reflects the level of need as determined by the needs assessment conducted pursuant to subdivision (d) of Section 382.

(4) Tier 1, tier 2, and tier 3 CARE rates shall not exceed 80 percent of the corresponding tier 1, tier 2, and tier 3 rates charged to residential customers not participating in the CARE program, excluding any Department of Water Resources bond charge imposed pursuant to Division 27 (commencing with Section 80000) of the Water Code, the CARE surcharge portion of the public goods charge, any charge imposed pursuant to the California Solar Initiative, and any charge imposed to fund any other program that exempts CARE participants from paying the charge.

(5) Rates charged to CARE program participants shall not have more than three tiers. An electrical corporation that does not have a tier 3 CARE rate may introduce a tier 3 CARE rate that, in order to moderate the impact on program participants whose usage exceeds 130 percent of baseline quantities, shall be phased in to 80 percent of the corresponding rates charged to residential customers not participating in the CARE program, excluding any Department of Water Resources bond charge imposed pursuant to Division 27 (commencing with Section 80000) of the Water Code, the CARE surcharge portion of the public goods charge, any charge imposed pursuant to the California Solar Initiative, and any other charge imposed to fund a program that exempts CARE participants from paying the charge. For an electrical corporation that does not have a tier 3 CARE rate that introduces a tier 3 CARE rate, the initial rate shall be no more than 150 percent of the CARE baseline rate. Any additional revenues collected by an electrical corporation resulting from the adoption of a tier 3 CARE rate shall, until the utility's next periodic general rate case review of cost allocation and rate design, be credited to reduce rates of residential ratepayers not participating in the CARE program with usage above 130 percent of baseline quantities.

(c) The commission shall ~~work with electrical and gas corporations to~~ not establish penetration goals. The commission shall authorize recovery of all administrative costs associated with the implementation of the CARE program that the commission determines to be reasonable, through a balancing account mechanism. Administrative costs shall include, but are not limited to, outreach, marketing, regulatory compliance, certification and verification, billing, measurement and evaluation, and capital improvements and upgrades to communications and processing equipment.

1 (d) The commission shall examine methods to improve CARE
2 enrollment and participation. This examination shall include, but
3 need not be limited to, comparing information from CARE and
4 the Universal Lifeline Telephone Service (ULTS) to determine
5 the most effective means of utilizing that information to increase
6 CARE enrollment, automatic enrollment of ULTS customers who
7 are eligible for the CARE program, customer privacy issues, and
8 alternative mechanisms for outreach to potential enrollees. The
9 commission shall ensure that a customer consents prior to
10 enrollment. The commission shall consult with interested parties,
11 including ULTS providers, to develop the best methods of
12 informing ULTS customers about other available low-income
13 programs, as well as the best mechanism for telephone providers
14 to recover reasonable costs incurred pursuant to this section.

15 (e) (1) The commission shall improve the CARE application
16 process by cooperating with other entities and representatives of
17 California government, including the California Health and Human
18 Services Agency and the Secretary of California Health and Human
19 Services, to ensure that all gas and electric customers eligible for
20 public assistance programs in California that reside within the
21 service territory of an electrical corporation or gas corporation,
22 are enrolled in the CARE program. To the extent practicable, the
23 commission shall develop a CARE application process using the
24 existing ULTS application process as a model. The commission
25 shall work with public utility electrical and gas corporations and
26 the Low-Income Oversight Board established in Section 382.1 to
27 meet the low-income objectives in this section.

28 (2) The commission shall ensure that an electrical corporation
29 or gas corporation with a commission-approved program to provide
30 discounts based upon economic need in addition to the CARE
31 program, including a Family Electric Rate Assistance program,
32 utilize a single application form, to enable an applicant to
33 alternatively apply for any assistance program for which the
34 applicant may be eligible. It is the intent of the Legislature to allow
35 applicants under one program, that may not be eligible under that
36 program, but that may be eligible under an alternative assistance
37 program based upon economic need, to complete a single
38 application for any commission-approved assistance program
39 offered by the public utility.

(f) The commission's program of assistance to low-income electric and gas customers shall, as soon as practicable, include nonprofit group living facilities specified by the commission, if the commission finds that the residents in these facilities substantially meet the commission's low-income eligibility requirements and there is a feasible process for certifying that the assistance shall be used for the direct benefit, such as improved quality of care or improved food service, of the low-income residents in the facilities. The commission shall authorize utilities to offer discounts to eligible facilities licensed or permitted by appropriate state or local agencies, and to facilities, including women's shelters, hospices, and homeless shelters, that may not have a license or permit but provide other proof satisfactory to the utility that they are eligible to participate in the program.

(g) It is the intent of the Legislature that the commission ensure CARE program participants are afforded the lowest possible electric and gas rates and, to the extent possible, are exempt from additional surcharges attributable to the energy crisis of 2000–01.

(h) (1) In addition to existing assessments of eligibility, an electrical corporation may require proof of income eligibility for those CARE program participants whose electricity usage, in any monthly or other billing period, exceeds 400 percent of baseline usage. The authority of an electrical corporation to require proof of income eligibility is not limited by the means by which the CARE program participant enrolled in the program, including if the participant was automatically enrolled in the CARE program because of participation in a governmental assistance program. If a CARE program participant's electricity usage exceeds 400 percent of baseline usage, the electrical corporation may require the CARE program participant to participate in the Energy Savings Assistance Program (ESAP), which includes a residential energy assessment, in order to provide the CARE program participant with information and assistance in reducing his or her energy usage. Continued participation in the CARE program may be conditioned upon the CARE program participant agreeing to participate in ESAP within 45 days of notice being given by the electrical corporation pursuant to this paragraph. The electrical corporation may require the CARE program participant to notify the utility of whether the residence is rented, and if so, a means by which to contact the landlord, and the electrical corporation may share any

1 evaluation and recommendation relative to the residential structure
2 that is made as part of an energy assessment, with the landlord of
3 the CARE program participant. Requirements imposed pursuant
4 to this paragraph shall be consistent with procedures adopted by
5 the commission.

6 (2) If a CARE program participant's electricity usage exceeds
7 600 percent of baseline usage, the electrical corporation shall
8 require the CARE program participant to participate in ESAP,
9 which includes a residential energy assessment, in order to provide
10 the CARE program participant with information and assistance in
11 reducing his or her energy usage. Continued participation in the
12 CARE program shall be conditioned upon the CARE program
13 participant agreeing to participate in ESAP within 45 days of a
14 notice made by the electrical corporation pursuant to this paragraph.
15 The electrical corporation may require the CARE program
16 participant to notify the utility of whether the residence is rented,
17 and if so, a means by which to contact the landlord, and the
18 electrical corporation may share any evaluation and
19 recommendation relative to the residential structure that is made
20 as part of an energy assessment, with the landlord of the CARE
21 program participant. Following the completion of the energy
22 assessment, if the CARE program participant's electricity usage
23 continues to exceed 600 percent of baseline usage, the electrical
24 corporation may remove the CARE program participant from the
25 program if the removal is consistent with procedures adopted by
26 the commission. Nothing in this paragraph shall prevent a CARE
27 program participant with electricity usage exceeding 600 percent
28 of baseline usage from participating in an appeals process with the
29 electrical corporation to determine whether the participant's usage
30 levels are legitimate.

31 (3) A CARE program participant in a rental residence shall not
32 be removed from the program in situations where the landlord is
33 nonresponsive when contacted by the electrical corporation or
34 does not provide for ESAP participation.

35 *SEC. 2. Section 739.11 is added to the Public Utilities Code,*
36 *to read:*

37 *739.11. The commission shall authorize an electrical or gas*
38 *corporation to verify, by the submission of proof of income, the*
39 *continuing eligibility of a participant in the CARE program*

1 *regardless of the means by which the participant was first enrolled*
2 *into the CARE program.*

3 ~~SECTION 1. Section 739.11 is added to the Public Utilities~~
4 ~~Code, to read:~~

5 ~~739.11. (a) The CARE application process developed pursuant~~
6 ~~to paragraph (1) of subdivision (c) of Section 739.1 shall require~~
7 ~~both of the following:~~

8 ~~(1) The submission of proof of income by the applicant when~~
9 ~~applying for enrollment.~~

10 ~~(2) The information submitted with the application is submitted~~
11 ~~by the applicant under the penalty of perjury.~~

12 ~~(b) An electrical or gas corporation shall perform a random~~
13 ~~audit of participants in the CARE program to ensure continued~~
14 ~~eligibility of the participants.~~

15 ~~(c) (1) Upon a finding of ineligibility pursuant to subdivision~~
16 ~~(b), the electrical or gas corporation shall remove the ineligible~~
17 ~~participant from the CARE program.~~

18 ~~(2) The electrical or gas corporation shall establish a procedure~~
19 ~~by which a participant may challenge the finding of ineligibility.~~

20 ~~(3) Additional revenue collected by an electrical or gas~~
21 ~~corporation resulting from the assessment of a penalty pursuant~~
22 ~~to subparagraph (B) of paragraph (1) shall be used for both of the~~
23 ~~following purposes:~~

24 ~~(A) To reimburse the corporation for the costs of administering~~
25 ~~this section.~~

26 ~~(B) Until the corporation's next periodic general rate case review~~
27 ~~of cost allocation and rate design, to be a credit toward reducing~~
28 ~~the rates of residential ratepayers not participating in the CARE~~
29 ~~program.~~

30 ~~SEC. 2. No reimbursement is required by this act pursuant to~~
31 ~~Section 6 of Article XIII B of the California Constitution because~~
32 ~~the only costs that may be incurred by a local agency or school~~
33 ~~district will be incurred because this act creates a new crime or~~
34 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
35 ~~for a crime or infraction, within the meaning of Section 17556 of~~
36 ~~the Government Code, or changes the definition of a crime within~~
37 ~~the meaning of Section 6 of Article XIII B of the California~~
38 ~~Constitution.~~